



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JAN 26 2018

Peter A. Reese

Buffalo, NY 14214

RE: MUR 7277

Dear Mr. Reese:

The Federal Election Commission reviewed the allegations in your complaint received on September 20, 2017. On January 4, 2018, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to Buffalo for Bernie Sanders, and Brian Nowak, in his official capacity as treasurer, and close its file in this matter. Accordingly, the Commission closed its file in this matter on January 4, 2018. A copy of the General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION

**ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT**

MUR: 7277

**Respondents: Buffalo for Bernie Sanders
And Brian Nowak, as treasurer
(The "Committee")**

Complaint Receipt Date: September 20, 2017

Response Date: November 6, 2017

EPS Rating:

Alleged Statutory

52 U.S.C. §§ 30104(b); 30124(b)

Regulatory Violations:

11 C.F.R. §§ 104.3(a), (c); 110.16(b)(1), (2)

The Complainant alleges that he and his wife made three donations totaling \$750 to the Committee, which were not itemized in any report to the Commission.¹ The Complainant claims that the checks were deposited in three separate banks and questions whether the funds were used to support presidential candidate Bernie Sanders. The Committee responds that the name "Buffalo for Bernie" was also used by state-registered campaigns, and asserts that the Complaint does not clarify whether the checks had been contributed to a state committee or the federal committee.² The Committee notes that the first two checks were issued before the Committee existed, and the third check, in the amount of \$100, fell below the threshold for itemizing contributions.³

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These

¹ The Complainant claims that he and his wife contributed to the Committee ("Buffalo for Bernie Sanders"), however copies of the cancelled checks attached to the Complaint show they were made out to "Buffalo for Bernie."

² The Response asserts that Nowak was only the treasurer for the federal committee, and not the treasurer of related state campaign committees. The Committee was approved for termination on April 21, 2016. It also asserts that the Complaint is a politically motivated attack relating to a local election. Resp. at 1.

³ The first two checks, for \$450 and \$200, were dated September 13, 2015, and October 10, 2015, four months before the Committee registered with the Commission on February 21, 2016. The third check was dated March 5, 2016.

criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the low amounts at issue, and the termination of the Committee, we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources.⁴ We also recommend that the Commission close the file as to all the Respondents and send the appropriate letters.

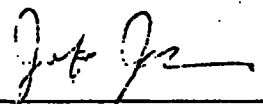
Lisa J. Stevenson
Acting General Counsel

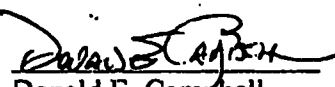
Kathleen M. Guith
Associate General Counsel

11.21.17
Date

BY:


Stephen Gura
Deputy Associate General Counsel


Jeff S. Jordan
Assistant General Counsel


Donald E. Campbell
Attorney

⁴ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).